

March 20, 2023

VIA ECF

The Honorable Victor Marrero
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007

RE: *In re European Gov't Bonds Antitrust Litig.*, No. 19-cv-02601 (S.D.N.Y.)

Dear Judge Marrero,

Plaintiffs write to update the Court about the status of the Court-approved settlement class notice program. *See* ECF No. 315. As explained herein, due to unexpected delays in the mailing of the Court-approved notice to certain non-settling Defendants'¹ counterparties, Plaintiffs request that the Court vacate the upcoming deadlines for the State Street and JPMorgan settlements (together, the "Settlements"). As soon as practicable, Plaintiffs will move to enter a new schedule leading to final approval of the Settlements.

Plaintiffs previously notified the Court that non-settling Defendants advised Plaintiffs that "foreign privacy and bank secrecy laws prohibit them from providing Plaintiffs (either directly or to their Court-appointed notice administrator, A.B. Data) with the names of their customers who may be potential class members." ECF No. 328 at 1. Thus, non-settling Defendants retained Rust Consulting Inc. ("Rust") to serve as a third-party notice agent to disseminate class notice to the non-Settling Defendants' counterparties. *Id.* Separately, UBS advised Plaintiffs that additional foreign legal restrictions required it to engage in self-distribution of notice. *Id.* Defendants advised Plaintiffs that Rust would commence "direct mail notice on or around mid-February 2023 to potential class members reasonably identified to date by non-settling Defendants." *Id.* at 2. At that time, Plaintiffs advised the Court that they had no reason to "anticipate any material delay in the dissemination of direct mail notice to potential class members that have been reasonably identified by the non-settling Defendants." *Id.*

Rust began mailing notices to certain non-settling Defendants' counterparties on February 16, 2023. To date, notices have been mailed to potential class members for seven of the

¹ The non-settling Defendants are Bank of America, N.A. and Merrill Lynch International (together, "Bank of America"); Natixis S.A. ("Natixis"); NatWest Markets plc (f/k/a Royal Bank of Scotland plc) and NatWest Markets Securities Inc. (f/k/a RBS Securities Inc.) (together, "NatWest"); Nomura Securities International Inc. and Nomura International PLC (together, "Nomura"); UBS AG, UBS Europe SE, and UBS Securities LLC f/k/a UBS Warburg LLC (together, "UBS"); UniCredit Bank AG and UniCredit Capital Markets LLC (together, "UniCredit"); Citigroup Global Markets Limited and Citigroup Global Markets Inc. (together, "Citigroup"); RBC Europe Limited f/k/a Royal Bank of Canada Europe Limited, Royal Bank of Canada, and RBC Capital Markets, LLC (f/k/a Dain Rauscher Inc.) (together, "RBC"); and Jefferies International Limited and Jefferies LLC (f/k/a Jefferies & Company, Inc.) (together, "Jefferies").

nine non-settling Defendants.² However, for certain non-settling Defendants, the process of obtaining counterparty information has been more complicated than originally anticipated, causing longer than anticipated delays in completing the distribution of mailed notice. For example, on March 7, 2023, Co-Lead Counsel was informed that Rust would not begin mailing notice to UniCredit's and Nomura's counterparties until March 14, 2023 (Rust ultimately mailed those notices one day earlier). More recently, Citigroup confirmed that it has completed its collection of counterparty information and transmitted it to Rust. Rust estimates that notices will be mailed for Citigroup counterparties in approximately seven to ten business days after receiving that information.³

UBS's self-directed mail notice program has been similarly delayed. Co-Lead Counsel has conferred with counsel for UBS weekly regarding the progress of UBS's diligent search for potential class members' identities and contact information. On February 23, 2023, counsel for UBS informed Co-Lead Counsel that the process was more complex than anticipated, in part because of technical issues accessing legacy systems. More recently, on March 13, 2023, UBS stated that it had finished identifying and collecting counterparty information, but that a further review of Swiss and other foreign laws was needed to determine the appropriate method of disseminating notice. For example, before counterparty information may be distributed to entities outside of Switzerland where UBS is based, UBS advised that it must conduct a review of the data to ensure compliance with all applicable laws.

Because of the number of steps UBS needs to take before notice can be distributed, as of the date of this letter, UBS is not able to provide a firm estimate of when it will be able to commence or complete the dissemination of notice to its counterparties, though UBS expects the process will commence in the near future.

Based on the foregoing information, Co-Lead Counsel no longer believe that all potential members of the settlement class will have adequate time to meet the deadlines for filing objections, requests for exclusion, and claims. Until such time that UBS can provide a firm estimate for distributing notice to its counterparties, Co-Lead Counsel request that the Court vacate the following dates:

March 27, 2023: Deadline for Motion for Final Approval of the Settlements and Application for Attorneys' Fees and Litigation Expenses

April 10, 2023: Deadline for Objections and Requests for Exclusion

April 26, 2023: Deadline for Claims

² Notices to Bank of America's and Natixis' counterparties were mailed on or about February 16, 2023, notices to NatWest's counterparties were mailed on or about February 22, 2023, and notices to RBC's and Jefferies' counterparties were mailed on or about February 24, 2023. Notices to UniCredit and Nomura counterparties were mailed on or about March 13, 2023.

³ On March 10, 2023, Citigroup's counsel informed Co-Lead Counsel that for a small percentage of Citigroup's counterparties, Rust already had information in its possession enabling it to mail notice to those entities. Rust mailed those notices between February 16 and February 24, 2023.

May 10, 2023: Deadline for Replies in Support of Motion for Final Approval of the Settlements and Application for Attorneys' Fees and Litigation Expenses

June 2, 2023: Settlement Fairness Hearing

Once ordered, the claims administrator will promptly post a notice on the settlement website that the deadlines have been vacated and to check back to the settlement website for updated deadlines. Those class members who have already received notice containing the existing deadlines are directed by that notice to check the website for updates. For this reason, the settlement website will serve as an updated notice, and it is not necessary to re-notice those class members to whom mailed notice has already been made.

The parties are available at the Court's convenience should the Court have any questions concerning this letter.

Respectfully submitted,

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